

REMARKS/ARGUMENTS

Claims 44-61 are pending in the application. Applicant has amended the dependency of claim 51 to correct an obvious typographical error. Because this amendment does not affect the scope or patentability of any claim, and does not raise any new issue requiring further consideration or search, Applicant respectfully submits that entry of this amendment is appropriate.

Claims 44-61 stand rejected under 35 U.S.C. §102(e) as being unpatentable over Pallakoff et al. (U.S. Patent 6,269,343). Applicant respectfully disagrees, since Pallakoff fails to teach or suggest the recited second-level offer. Accordingly, Applicant respectfully traverses this rejection, and requests reconsideration and allowance of the claims in view of the following arguments.

In the claimed invention, a plurality of hierarchical offers include at least one first-level offer including at least a first one of a plurality of atomic offers, and at least one second-level offer including the first-level offer and at least a second one of the plurality of atomic offers not included within the first-level offer, wherein the first one of the plurality of atomic offers is an atomic offer for a first good or service, and the second one of the plurality of atomic offers is an atomic offer for a second good or service different from the first good or service.

As is apparent from the Examiner's reading of Pallakoff, the second good or service is the same as the first good or service – namely, balls. The price differs, but the good does not. Moreover, the second level offer in Pallakoff does not include the first level offer, because the price of the second level offer is different from the price of the first level offer.

By way of example, in the embodiment shown in Fig. 1 of the present application, an offer hierarchy 100 includes four atomic offers 102, 104, 106 and 108. Each of the atomic offers

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is associated with a good or service, such as rollerblades, kneepads, wrist guards or rollerblade lessons. A package offer 112 includes the cost of atomic offers 102, 104, and 106. A package offer 114 includes the cost of package offer 112, and the atomic offer 108.

Looking at the prior art, Pallakoff provides a method and system that allows sellers to communicate conditional offers to potential buyers. The conditions include prices that depend on the aggregate amount of goods or services that buyers collectively agree to purchase by a given time and date (Pallakoff, Abstract).

The Examiner has argued that Pallakoff teaches the first and second level offers, since Pallakoff discloses different levels of offers by having different price ranges for different products at various levels, i.e., the first-level allegedly is 2 to 5 balls at \$10 while the second-level allegedly is 6-20 balls at \$8. Assuming for the sake of argument that this example shows two levels, the price of the second level offer is different from the price of the first level offer, because the more the buyers order, the lower the unit price of each item will be. Therefore, the second level offer does not include the first level offer, as claimed in the present application. Consequently, Applicant submits that Pallakoff fails to teach the recited second-level offer.

In addition, Pallakoff fails to teach a hierarchical offer wherein the first one of the plurality of atomic offers is an atomic offer for a first good or service, and the second one of the plurality of atomic offers is an atomic offer for a second good or service different from the first good or service. Again, even assuming that 2-5 balls at \$10 represents a first-level offer, and 6-20 balls at \$8 represents a second-level offer, the two offers are for the same good, balls. The only difference is that if the buyers order more, they will get a lower price.

Pursuant to the foregoing discussion, Applicant respectfully resubmits that claims 44-61 are patentable over Pallakoff.

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Request for Allowance

For all the above reasons, the Applicant respectfully submit that this application is in condition for allowance. A Notice of Allowance is earnestly solicited.

The Examiner is invited to contact the undersigned at (408) 975-7500 to discuss any matter concerning this application.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. §1.16 or §1.17 to the deposit account of Kenyon & Kenyon, deposit account no. **11-0600.**

Respectfully submitted,

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